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AMIN, TUROCY & CALVIN, LLP 1900 EAST 9TH STREET, NATIONAL CITY CENTER 24TH FLOOR, CLEVELAND, OH 44114			HOEY, ALISSA L	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JEASUNG JAY YOO

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Appeal 2007-2889  
Application 10/772,610  
Technology Center 3700

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DECIDED: March 7, 2008

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Before TONI R. SCHEINER, ERIC GRIMES, and LORA M. GREEN,  
*Administrative Patent Judges.*

SCHEINER, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the final rejection of claims 1-12, 27 and 28.<sup>1</sup> The claims stand rejected as anticipated by and obvious over the prior art. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> Claims 21-26 are also pending, but have been withdrawn from consideration.

## STATEMENT OF THE CASE

The present invention is directed to “[a]n outer garment that can be fashionably acceptable for either business and/or casual use . . . The outer garment can . . . include inner pocket(s), for example, sewn in a lining attached to the outer garment. The inner pocket(s) are generally accessible from an inner surface of the outer garment. Optionally, the inner pocket(s) can be accessible from an outer surface of the outer garment through an access slit (e.g., hidden and/or unnoticeable) of the outer garment” (Spec. 1:28 to 2: 3).

In addition, “a vest/liner having an inner surface and an outer surface is provided” (Spec. 2: 29-30). “[T]he vest/liner can be worn attached to the outer garment or detached from the outer garment . . . at a wearer’s preference” (Spec. 3: 3-4). The vest/liner can comprise access slit(s) arranged to spatially correspond to the inner pockets of the outer garment, to facilitate access to the inner pocket(s) of the outer garment from the inside of the vest/liner (Spec. 11: 12-19).

Claim 1 is representative, and reads as follows:

1. A garment comprising:
  - an outer garment comprising an inner pocket; and,
  - a vest/liner formed to selectively be worn in one of alone and coupled to the outer garment, the vest/liner having an access slit that facilitates access to the inner pocket of the outer garment when coupled to the outer garment,
  - means for fastening and at least partially coupling the vest/liner to the outer garment such that the inner pocket is accessible *via* the access slit when the vest/liner is coupled to the outer garment.

The claims stand rejected as follows:

1. Claims 1-3, 5, 6, and 9 under 35 U.S.C. § 102(b) as anticipated by Siegel (U.S. Patent 2,073,231, March 9, 1937).
2. Claims 4, 11, and 12 under 35 U.S.C. § 103(a) as unpatentable over Siegel in view of Jordan (U.S. Patent Application Publication 2002/0189000 A1, December 19, 2002).
3. Claims 7, 8, and 10 under 35 U.S.C. § 103(a) as unpatentable over Siegel in view of Anderson (U.S. Patent 3,055,133, September 25, 1962).
4. Claims 27 and 28 under 35 U.S.C. § 103(a) as unpatentable over Siegel in view of Lenart (U.S. Patent 5,468,152, November 21, 1995).

#### ISSUES ON APPEAL

Although there are four separate rejections of the claims, the Examiner's interpretation of Siegel's teachings, as applied to claim 1, forms the basis of each rejection, and Appellant's arguments are exclusively directed to Siegel's purported deficiencies.

The Examiner contends that Siegel describes a garment comprising an outer garment with an inner pocket, a removable lining which can be worn alone or coupled to the outer garment, and means for fastening the lining to the outer garment, wherein the removable lining has an access slit such that the inner pocket of the outer garment is accessible via the access slit when the lining is coupled to the garment (Ans. 3-4).

Appellant contends that "the 'pocket' of Siegel is designed so as to make the slit generally *inaccessible* when the user's hand is inserted into the pocket" (App. Br. 4), "the pocket of Siegel is directly accessible *only* through the top coat, *not* through the liner" (Ans. 5), and "the slit [ ] in the

liner is used to gain access to a sack coat [worn under the top coat] from the top coat, *not* to a pocket in the top coat, as presently claimed" (App. Br. 5).

The determinative issue raised by this appeal - for the anticipation rejection and the obviousness rejections - is whether the slit in the removable lining of Siegel's coat provides access to the inside pocket of the topcoat.

#### FINDINGS OF FACT<sup>2</sup>

1. Siegel describes a "composite garment" comprising an outer coat (or overcoat or top coat) and a removable lining. Means are provided for fastening the lining to the outer coat. "The lining when removed [can] be used as a separate garment such as a bath robe or raincoat and provide[s] a robe or raincoat of substantially conventional appearance" (Siegel 1, left-hand col., ll. 1-30).
2. The outer coat has inner pockets. Slits on the outer coat provide access to the inner pockets, and to the pockets of a sack coat worn underneath the outer coat, even when the outer coat is buttoned (Siegel 1, left-hand col., ll. 46-49, and Siegel 2, right-hand col., ll. 56-59).
3. The lining has slits "adapted to register with the slits in the overcoat pockets" so that the sack coat is accessible even when the lining is attached to the outer coat (Siegel, 3, left-hand col., ll. 2-6).
4. The "sack coat" is a separate suit jacket worn under the overcoat; it is not part of Siegel's overcoat or lining.
5. Figures 11 and 12 of Siegel, which show the outer appearance of the outer coat, and the lining in use as a separate garment, are reproduced immediately below:

<sup>2</sup> Abbreviated "FF".

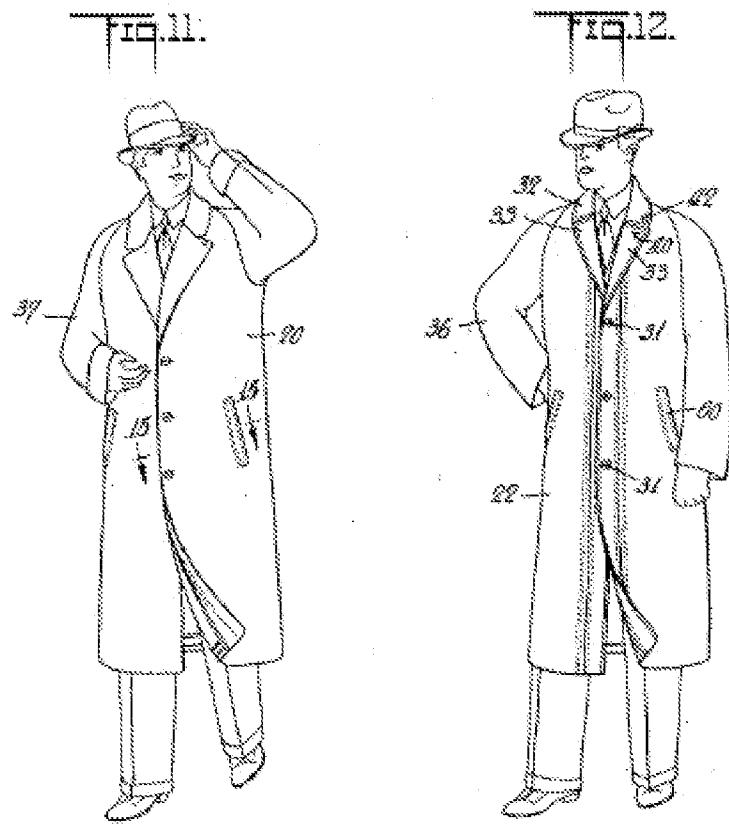


Figure 11 is a perspective view showing the overcoat in use on a wearer (with or without the removable liner), and Figure 12 is a perspective view showing the lining, in this case a raincoat, in use on a wearer (Siegel 1, right-hand col., ll. 25-28).

6. Figures 15 and 16, which show the construction of an inside pocket of the outer coat, are reproduced immediately below:

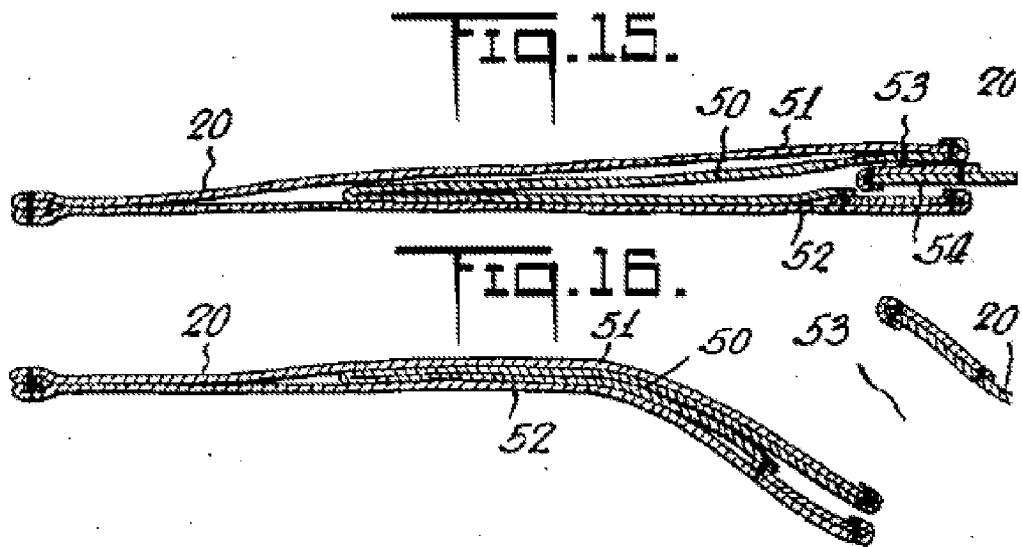


Figure 15 is a “detail through the pocket [of the outer coat,] taken on the line 15---15 of Fig. 11,” and Figure 16 “is a similar view illustrating the manner in which this pocket may be opened up to permit the wearer’s hand to gain access to a sack coat” (Siegel 1, right-hand col., 32-36).

7. Siegel notes that “[o]ne disadvantage of . . . [having] a slit . . . associated with the pocket [was that] the wearer was just as apt to drop coins and other small articles through the slit as into the pocket” (Siegel 2, right-hand col., ll. 50-55).

8. In order to eliminate this problem, Siegel “provides a pocket so designed that in inserting the hand normally into the pocket there will be no danger of having the hand go through the slit” (Siegel 2, right-hand col., ll. 56-59). “[I]n other words,” Siegel describes “a slit in the overcoat pocket through which the hand may be deliberately inserted but which is so designed as to prevent inadvertent passage of the hand through it” (Siegel 2, right-hand col., l. 77 to 3, right-hand col. l. 1).

9. As shown in Figures 15 and 16, the pocket “is provided with a lining **50** lying between the two laminations **51** and **52** of the coat body. The inner lamination **51** of the pocket is not directly attached to the coat body **20** but the material of the coat body extends inwardly into the pocket, for a short distance, as at **54**, providing a normally inaccessible slit **53**. Thus, when the wearer inserts his hand into the pocket it will normally pass directly between laminations **51** and **52** but if it is desired to gain access to a sack coat pocket the hand is twisted rearwardly to open up the slit **53** as illustrated in Fig. 16” (Siegel 2, right-hand col., ll. 60-72).

## DISCUSSION

### *Anticipation*

Claims 1-3, 5, 6, and 9 stand rejected under 35 U.S.C. § 102(b) as anticipated by Siegel. Appellant presents arguments with respect to claim 1 only, therefore, claims 2, 3, 5, 6, and 9 will stand or fall with claim 1, as provided by 37 C.F.R. § 41.37(c)(1)(vii) (2006).

As discussed above, Siegel describes a composite garment comprising an outer coat with an inner pocket, a removable lining which can be worn alone or coupled to the outer coat, and means for fastening the lining to the outer garment, wherein the outer coat has an access slit associated with the inner pocket, and the lining has an access slit in registration with the slit in the outer coat (FF 1-3).

Appellant contends that the lining of the claimed garment has “*an access slit that facilitates access to the inner pocket of the outer garment when coupled to the outer garment . . . [and] the inner pocket is accessible*

*via the access slit*”, but “the ‘pocket’ of Siegel is designed so as to make the slit generally *inaccessible* when the user’s hand is inserted into the pocket” (Br. 4), and “the pocket of Siegel is directly accessible *only* through the top coat, *not* through the liner” (Br. 5).

The Examiner contends that the same construction that “allows a user to place their hand from outside the outer garment to the inner pocket or through the outer garment pocket opening and through vest/liner slit (60) to a sack coat pocket . . . makes it possible for the user to place their hand from inside the liner/vest, through the vest/liner slit and into the pocket of the outer garment” (Ans. 8).

We agree with the Examiner that Siegel anticipates the invention of claim 1. Because inner lamination **51** is not directly attached to the coat body **20**, a user can insert a hand directly into pocket **50** between laminations **51** and **52**, or a user can deliberately move the portion of the overcoat labeled **54** out of the way, to bypass the pocket and insert a hand through the slit of the overcoat instead, and through corresponding slit **60** in the lining, to reach a pocket in a sack coat (i.e., a suit jacket) worn beneath the overcoat and liner (FF 2, 3, 6, 9). Because inner lamination **51** is not directly attached to the coat body **20** in the area of the pocket, there is nothing to prevent a user from inserting a hand into the pocket in the reverse direction, i.e., from the interior of the lining, through lining slit **60**, through the region labeled **53** in Figure 16, and into pocket **50** (FF 6, 9).

Again, the issue raised by this appeal is whether the construction of Siegel’s garment would provide access from the lining to the pocket in the outer coat. Appellant has not identified any structural feature that would

preclude such access. Whether or not Siegel *intended* to provide access to the pocket through the lining is irrelevant.

We find that the Examiner has established a *prima facie* case of anticipation with respect to claim 1, which Appellant has not overcome by argument or evidence. As discussed above, claims 2, 3, 5, 6, and 9 stand or fall with claim 1.

Accordingly, the rejection of claims 1-3, 5, 6, and 9 under 35 U.S.C. § 102(b) as anticipated by Siegel is affirmed.

#### *Obviousness*

Claims 4, 11, and 12 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Siegel in view of Jordan.

Claims 7, 8, and 10 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Siegel in view of Anderson.

In each case, Appellant argues only that the claims depend from independent claim 1, and “Siegel does not disclose or suggest every limitation set forth in the subject independent claim,” and neither Jordan nor Anderson cures this deficiency (Br. 6).

We are not persuaded by this argument as we agree with the Examiner that Siegel does anticipate the invention of claim 1.

Accordingly, both of these rejections of the claims under 35 U.S.C. § 103(a) are affirmed.

Claims 27 and 28 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Siegel in view of Lenart.

Appellant argues that independent claim 27 requires a “*vest/liner having an access slit that facilitates access to the inner pocket of the outer*

*garment . . . and the inner pocket is accessible via the access slit when the vest/liner is coupled to the outer garment*, as also recited in independent claim 1” (Br. 6), but “Siegel does not disclose or suggest every one of these limitations as set forth in the subject independent claim” (Br. 6) and “Lenart does not cure the aforementioned deficiencies of Siegel” (Br. 6).

Again, we are not persuaded by this argument as we agree with the Examiner that Siegel does disclose the specified limitation of claims 1 and 27, and Appellant has not disputed that Lenart would have suggested the element(s) of claim 27 that are missing from Siegel.

The rejection of claims 27 and 28 under 35 U.S.C. § 103(a) as unpatentable over Siegel in view of Lenart is affirmed.

#### SUMMARY

1. The rejection of claims 1-3, 5, 6, and 9 under 35 U.S.C. § 102(b) as anticipated by Siegel is affirmed.
2. The rejection of claims 4, 11, and 12 under 35 U.S.C. § 103(a) as unpatentable over Siegel in view of Jordan is affirmed.
3. The rejection of claims 7, 8, and 10 under 35 U.S.C. § 103(a) as unpatentable over Siegel in view of Anderson is affirmed.
4. The rejection of claims 27 and 28 under 35 U.S.C. § 103(a) as unpatentable over Siegel in view of Lenart is affirmed.

Appeal 2007-2889  
Application 10/772,610

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2006).

AFFIRMED

Ssc:

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